IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5556 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GAMJAN VIKAS MANDAL

Versus

GUJARAT SECONDARY EDUCATION BOARD

Appearance:

MR JD AJMERA for Petitioner

Mr.D.R.Dave for Mr.A.D.Oza for respondent No.1.

Ms.Harsha Devani, learned A.G.P. for respondent No.2.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 11/07/2000

ORAL JUDGEMENT

1. The petitioner claims to be a Registered Trust under the Bombay Public Trusts Act. The petitioner desired to open a new Secondary School at village Dadhaliya, Taluka Santrampur, District Panchmahal from the academic year 1990-91. The petitioner, therefore, applied to the Gujarat Secondary Education Board under S.31(1) of the Gujarat Secondary Education Act, 1972 in

the prescribed Form on 30.8.89. Alongwith this Application, the petitioner had submitted the Certificate of Registration of the Trust received from Assistant Charity Commissioner, a list of Office bearers of the Trust, a Certificate issued by the Mamlatdar stating that the said village is situated in Adivasi area, a letter of the landlord stating that he was ready to give premises to the School Management to run the School, a Map of the premises, a Certificate showing population of the village Dadhaliya and surrounding villages, the distance of some villages and also a Certificate given by the Sarpanch of Group Gram Panchayat, Dadhaliya that they are ready to give 2 Acres of land as play ground to the students of the proposed School. The petitioner also submitted a Certificate of Primary School in the said Village showing that there were about 34 students in 7th Standard and that Saraswati Vidhyamandir Mota Gharoda, Tal. Santrampur had given no objection certificate for the proposed School. It has been further stated that the petitioner had also deposited the amount in the Bank as required by the Board. After hearing the petitioner, the Gujarat Secondary Education Board rejected the petitioner's Application on 18.5.90 on the following grounds:-

"1) President and Secretary of the Trust are serving as teachers.
2) There are three local members in the Trust out of the total members.
3) As per regulation 9(7)(1) for one class of std.8 balance of Rs.75,000/- was withdrawn by the petitioner in December, 1989, it was subsequently deposited on 11.4.1990 by obtaining loan. Therefore, financial position of the petitioner trust is not sound.
4) As per regulation 9(16) Secondary Schools are situated at Kajali, Malekpur and at Mota Gharol at the distance of 5 Kms. from the proposed school.
5) One primary school is situated in the said village and number of strength of the student in std.7 is 34.
6) As per the requirement of 9(15), the petitioner has not established the need of a secondary school in the said area."

2. Aggrieved from the said order dt.18.5.90, the petitioner preferred an Appeal before the State Government under Sec.31(10) of the Act. After giving personal hearing to the petitioner, the State Government dismissed the Appeal on 21.3.91. The Appellate Authority

found that the reasons given by the Board were all correct. The Appellate Authority had also found that there was likelihood of unhealthy competition. Thereafter, the petitioner submitted a representation on 11.4.91 to the Education Minister to re-consider the matter.The petitioner then filed the present petition on 8.8.91 against the order dated 18.5.90 passed by the Gujarat Secondary Education Board and the order passed by the State Government in Appeal on 21.3.91. Notice was issued on 19.8.91 and, thereafter, Rule was issued on 29.12.93 in this petition.

3. On behalf of respondent No.1 an affidavit in reply dated 13.6.2000 has been filed seeking to traverse the petitioner's claim as was made in the petition and it has been stated that the recognition was rightly refused on the grounds mentioned in the order dated 18.5.90 itself and in the body of the affidavit also 5 grounds have been set out in para 6 for which recognition was refused. It has also been stated in the reply that impugned orders are passed on such finding of facts which cannot be disturbed in the writ jurisdiction.

4. Having heard learned counsel for the petitioner and the respondents, this Court finds that the six grounds, as set out in the body of the order dated 18.5.90, cannot be said to be grounds which are irrelevant, extraneous or not germane to the considerations for the purpose of refusing the recognition. Whether any Trust is to be granted recognition or not, is certainly a function of the Board and the Board in due discharge of its duties under the appropriate statutory provisions has considered petitioner's request and refused recognition. Such decisions taken in a matter relating to the recognition of an educational institution hardly warrants any interference by this Court unless it is found that the decision taken by the authority is perverse or is contrary to the law or that the order has been passed in violation of principles of natural justice or that the order was passed for reasons, which are extraneous and not germane or that the order is malafide and has been passed for collateral purposes. This Court finds that none of such grounds are either alleged or exist in the facts of the present case. It is not for this court to examine as to whether the grounds were sufficient to refuse recognition or not. I do not find any force in this petition. The same is hereby dismissed. Rule is hereby discharged. In the facts and circumstances of the case, the parties are left to bear their own costs.

(M.R.Calla,J)